



Confederated Tribes and Bands
Of the Yakama Nation

Established by the
Treaty of June 9, 1855

YAKAMA NATION PROSECUTOR'S OFFICE – DIVISION OF CODE REVISION

TO ALL PERSONS BE IT KNOWN:

April 15, 2009

RE: TITLE XXXII (32) – FISHERIES CODE

Pursuant to the authority granted by T-53-77 and T-020-08, the attached *Title XXXII (32) – Fisheries Code* is authenticated as a true copy and is the official version of the code for all purposes.

Prepared this 15th day of April by:

E. David Lees, Tribal Prosecutor
(íwinsh iwa nak'wtkwiniŋa tamanwitnan)
Office of the Prosecutor
Division of Code Revision

TITLE XXXII (32) – FISHERIES CODE

CHAPTER 32.10 – GENERAL FISHERIES PROVISIONS

32.10.01: TITLE.

Chapter 32.10 through Chapter 32.122 of Title XXXII (32) shall be entitled as the Yakama Nation Fisheries Code and Wildlife Code. Chapters 32.10 through Chapter 32.30 of this Title shall be entitled, and referred to as, the Yakama Nation Fisheries Code. Chapters 32.100 through Chapter 32.122 of this Title shall be entitled, and referred to as, the Yakama Nation Wildlife Code. Throughout Chapters 32.10 through Chapter 32.30, any reference to “this Code” shall mean the Yakama Nation Fisheries Code and any regulations adopted thereunder.

[Annotation: Enacted by T-121-08]

32.10.03: REPEALED AND ENABLING.

(A) The following are repealed:

- (1) RYC 10.01.83 FISH AND GAME VIOLATION;
- (2) Title XXXII FISH AND WILDLIFE;
- (3) Title XXXII REVISED YAKAMA NATION WILDLIFE CODE; and
- (4) Any part of any Code, Resolution, Regulation, Committee Action, and other rule conflicting with this Code.

(B) This Code is enacted effective April 4, 2008 at 12:00 Midnight.

(C) All Codes, Resolutions, Regulations, Committee Actions, and other rules shall be interpreted to give full force of law to this Code.

(D) Permits previously issued shall remain valid until their scheduled expiration dates.

[Annotation: Enacted by T-121-08]



32.10.05: DEFINITIONS.

As used in this Code or regulations adopted thereunder, unless the context clearly requires otherwise:

- (1) "Catch limit" means the number of each species of fish that may be taken in one day by any one person.
- (2) "Ceremonial fishing" means taking fish for purposes established by Yakama tribal customs and traditions.
- (3) "Closed season" means the period of time during which the taking of a particular species of fish is prohibited.
- (4) "Committee" means the Yakama Nation Fish, Wildlife, and Law & Order Committee.
- (5) "Commercial" means the sale, trade, barter, and/or transport of goods or exchange of services for profit for any other purpose than subsistence or traditional usage or to satisfy a traditional obligation.
- (6) "Court" means the Yakama Tribal Court.
- (7) "Dipnet" means a bag-shaped net of wire, monofilament, or twine webbing tied to a metal or wooden hoop which is attached to a long wooden or metal pole for the purpose of dipping fish from the water.
- (8) "Deadline" means the boundary marking waters closed to fishing.
- (9) "Fish" means all finned fish, shell fish, snails, and lamprey.
- (10) "Fishing" or "to fish" means attempting to take fish.
- (11) "Food fish" means any species of fish taken primarily for the purpose of consumption by humans.
- (12) "Fish Sanctuary" means waters closed to fishing or the taking of fish by any method.
- (13) "FRMP" means the Yakama Nation Fisheries Resource Management Program.
- (14) "Gaffing" means hooking or spearing, attempting to hook or spear, or operating a



gaff or spear in a manner intended to impale fish in its body.

- (15) "Gaff" is a sharpened hook or spear of any size which may be attached to a handle or a length of twine for the purpose of impaling fish.
- (16) "Game warden" means a person commissioned by the Tribal Police to enforce tribal laws, codes, resolutions, or rules regulating fishing and taking of fish.
- (17) "Gillnet" means a net constructed of a corkline, leadline, and webbing that is deployed to hang in the water in such a manner as to intercept and snare by the gills or fins fish swimming in a direction perpendicular to it.
 - (a) "Set gillnet" means one gillnet or a combination of gillnets not exceeding four hundred (400) feet in length that is anchored at both ends, by tying to fixed objects on shore, from pilings, or anchors on the river bottom.
 - (b) "Drift gillnet" means one or a combination of gillnets not exceeding eight hundred (800) feet in length, unless otherwise specified by Special Permit, that is not anchored or otherwise fixed in place.
 - (c) "Diver gillnet" means a set gillnet not exceeding four hundred (400) feet in length that is deployed entirely below the surface of the water so that no part of the corkline is visible.
- (18) "Gillnet Fishing Site" means the geographic location at which one set gillnet is tied or anchored to the shore.
- (19) "Indian" means a person who is an enrolled member of a federally recognized Indian tribe.
- (20) "Net" means any barrier, bag, or device constructed of webbing that is used to catch fish, including but not limited to Dipnets, Gillnets, and Set bag nets.
- (21) "Non-Indian" means a person who is not an enrolled member of a federally recognized Indian tribe.
- (22) "Non-member" means a person who is not an enrolled member of the Confederated Tribes and Bands of the Yakama Nation and who is not authorized



to exercise treaty fishing rights under the Treaty of June 9, 1855 (12 Stat. 951).

- (23) "Officer" means a game warden.
- (24) "Off-Reservation" means all areas, lands, and waters located outside the exterior boundaries of the Yakama Reservation.
- (25) "Season" means the time period, geographic area, and fishing methods by which fishing or taking of fish is permitted.
- (26) "Persons" means and includes individuals; all business organizations, including corporations or partnerships; public or private entities, organizations or associations; or tribal, state, or federal agencies.
- (27) "Platform" means an erected structure fixed to the land or riverbed and used for the purpose of fishing.
- (28) "Possession" means actual possession or direct physical control over taken fish or personal property while fishing.
- (29) "Possession limit" means the number of each species of fish that one person may have in his or her possession at one time..
- (30) "Protected" means excluded from lawful taking by Yakama Tribal Council resolution.
- (31) "Regulation" means any rule, directive or standard that implements, interprets, or describes the procedures or requirements of any provisions of this Code.
- (32) "Reservation" means the Yakama Reservation.
- (33) "Set net", "hoopnet", or "set bag net" means a bag-shaped net of wire, monofilament, or twine webbing attached to a metal or wooden hoop not more than twenty-six (26) feet in circumference which is fixed in place from platforms for the purpose of catching migrating salmon and steelhead.
- (34) "Sturgeon setline" means a length of weighted line deployed on the river bottom from which not more than one hundred (100) hooks of size nine/zero (9/0) or greater are attached.



- (35) “Snagging” means hooking, attempting to hook, or operating hook-and-line fishing gear in a manner intended to hook fish in a body part other than the mouth.
- (36) “Subsistence” means taken for individual, community, or tribal governmental use and not for any commercial purpose or sale to any non-Indian.
- (37) “Special Permit” means a permit issued by the Committee for a special purpose as authorized under Chapter 32.22 of this Code.
- (38) “Take” means to kill, capture, catch, trap, or otherwise molest fish.
- (39) “This Code” means Chapters 32.10 through 32.30 of this Title and any regulations adopted thereunder.
- (40) “Trapping” means any effort to take or attempt to take fish with a trap, net, snare or other device used for the purpose of capture.
- (41) “Treaty fishing rights” means the right of Yakama members to fish or take fish under the Treaty of June 9, 1855 (12 Stat. 951) between the Yakama Nation and the United States.
- (42) “Tribal Council” means the Yakama Tribal Council.
- (43) “Tribal employee” means a person who is currently employed by the Yakama Nation in any capacity and is not an independent contractor.
- (44) “Tribal Police” means the Yakama Nation Tribal Police.
- (45) “Tribal Prosecutor” means the Yakama Nation Tribal Prosecutor and Yakama Nation Prosecutor Advocates.
- (46) “Waste” means the abandonment of or deterioration of those portions of taken fish normally used for human consumption.
- (47) “Yakama Fishing Area” means all usual and accustomed places under Article III of the Treaty of June 9, 1855 (12 Stat. 951), all in lieu fishing sites designated under Federal law for use by Yakama members, and any other fishing areas or sites within the jurisdiction of the Yakama Nation.
- (48) “Yakama member” means a person who is an enrolled member of the



Confederated Tribes and Bands of the Yakama Nation and who is authorized to exercise treaty fishing rights under the Treaty of June 9, 1855 (12 Stat. 951).

- (49) “Yakama Nation” means the Confederated Tribes and Bands of the Yakama Nation.
- (50) “Yakama Reservation” means those lands and waters reserved by Article II of the Treaty of June 9, 1855 (12 Stat. 951); and as described therein, including those areas known as “Tract C” and “Tract D,” as well as the Yakima River and Ahtanum Creek.

[Annotation: Enacted by T-121-08]

32.10.07: FINDINGS.

The Yakama Tribal Council, for and on behalf of the Yakama Nation, finds and declares the following:

- (A) In the Treaty of June 9, 1855, the Yakama Nation reserved the right to maintain its culture and the natural resources on which its culture depends, including rights to water, land, and natural foods and medicines.
- (B) The people of the Yakama Nation recognize the spiritual, cultural, and economic value of all fish resources.
- (C) All fish species are not just natural resources, but are cultural resources as well.
- (D) Fish are an irreplaceable part of the Yakama Nation’s heritage.
- (E) By the Treaty, the Yakama Nation reserved the right to exclusive control of the taking of fish, and the preservation of fish habitat at all usual and accustomed fishing places.
- (F) It is the right and duty of the Yakama Nation to regulate, manage and properly harvest its fish resources located on or off the Reservation, including, but not limited to, the ceded area and ancestral fishing areas for the benefit of present and future generations.



(G) Unregulated use of fish would threaten the political integrity, economic security, and health and welfare of the Yakama Nation.

(H) To protect, maintain, and fairly distribute the benefits of fish resources, it is necessary to define fishing rights and privileges, and enact laws to protect and conserve such resources for the maximum benefit of all present and future Yakama members.

(I) Limited use of Reservation fish resources by non-members will provide an economic benefit to the Yakama Nation, and will promote intercultural education and good will.

(J) The Yakama Nation traditionally and culturally objects to placing a monetary value on fisheries, however, for the purposes of fisheries management and preservation a schedule of civil fines and restitution shall be established.

[Annotation: Enacted by T-121-08]

32.10.09: POLICY.

It shall be the policy of the Yakama Nation that:

(A) The fish found in waters within the exterior boundaries of the Yakama Reservation is the property of the Yakama Nation; and

(B) The Yakama Nation has a special duty to manage fish resources located off the reservation to ensure that Yakama members have a fair and equitable opportunity to harvest fish, and to have fish present to harvest, at all usual and accustomed places reserved by the Treaty of June 9, 1855; and

(C) It shall be the purpose of this Code to preserve, protect, and enhance in a sustainable manner the fish and fisheries of the Yakama Nation primarily for the use and enjoyment of present and future Yakama members; and

(D) The order of priority for allocating available fish for harvest shall be:

1. Traditional cultural ceremonies;
2. Personal use and subsistence of Yakama members;



3. Commercial fisheries to sustain livelihood; and

(E) At the discretion of the Tribal Council, fish within the exterior boundaries of the Yakama Reservation shall be secondarily available for the sport and recreation of non-members, subject to this Code and any regulations or conditions pursuant thereto.

[Annotation: Enacted by T-121-08]

CHAPTER 32.12 – JURISDICTION

32.12.01: YAKAMA RESERVATION.

This Code applies to all persons fishing or taking fish or otherwise found within the exterior boundaries of the Reservation.

[Annotation: Enacted by T-121-08]

32.12.03: FISHING OFF-RESERVATION.

Fishing or taking of fish by Yakama members at usual and accustomed areas not within the exterior boundaries of the Reservation, pursuant to the rights reserved by the Treaty of June 9, 1855, shall be in accordance with this Code.

[Annotation: Enacted by T-121-08]

32.12.05: EXTRATERRITORIAL JURISDICTION.

The Yakama Nation assumes and retains jurisdiction over all lands, waters, and airspaces not within the exterior boundaries of the Reservation as permitted by any law, treaty, convention, charter, compact, and/or any other agreement. This Code applies to all persons engaging in any act within said assumed and retained jurisdiction.

[Annotation: Enacted by T-121-08]



32.12.07: PREEMPTION OF STATE JURISDICTION.

This Code preempts any state jurisdiction, and it is no defense that an activity is lawful under state law.

[Annotation: Enacted by T-121-08]

32.12.09: TRIBAL COURT.

The Tribal Court shall have exclusive jurisdiction over all violations of this Code.

[Annotation: Enacted by T-121-08]

32.12.11: RIGHTS RESERVED.

Nothing in this Code, or in any such regulations adopted pursuant hereto, shall diminish the rights reserved to the Yakama Nation and its members by the Treaty of 1855, or deprive the Tribal Council of the right to modify, amend or repeal this Code.

[Annotation: Enacted by T-121-08]

CHAPTER 32.14 – COMMITTEE AUTHORITY

32.14.01: POWERS.

The Committee is authorized to carry out all applicable provisions of this Code, to promulgate all necessary regulations consistent with this Code, and to enforce any orders or decrees of the Tribal Court which relate to the subject matter of this Code.

[Annotation: Enacted by T-121-08]

32.14.03: MANDATORY DUTIES.

The Committee shall:

- (A) Establish seasons for fishing and taking of fish species by both Yakama members and non-members; and



(B) Issue such permits as may be necessary to carry out the provisions of this Code; and

(C) Establish reasonable fees.

[Annotation: Enacted by T-121-08]

32.14.05: DISCRETIONARY DUTIES.

In carrying out its duties provided by Section 32.14.03 of this Code, the Committee may:

(A) Establish the number and size of fish of any species that may be taken including daily catch limits and possession limits. Such determination may consider such factors as abundance, spawning needs, and other biological, cultural, legal, or economic considerations;

(B) Establish areas or territorial limits for waters open to the taking of fish;

(C) Establish the manner and means of taking fish.

[Annotation: Enacted by T-121-08]

32.14.07: BUDGET.

The Committee is authorized to prepare an annual budget reasonably calculated to carry out the provisions of this Code.

[Annotation: Enacted by T-121-08]

32.14.09: GILLNET FISHING SITE REGISTRATION.

Gillnet fishing sites on the Columbia River are held by the Yakama Nation for the exclusive use of Yakama members exercising Treaty fishing rights. The Committee shall have exclusive jurisdiction to authorize the registration of gillnet fishing sites by Yakama members for their use during commercial fishing periods.

(1) Prior to use by Yakama members, all gillnet fishing sites shall be registered with the Committee by the persons entitled to such sites under this Code: The Committee shall consider family and traditional use of gillnet fishing sites in



making its decisions.

- (2) Gillnet fishing site registrations that have been approved by the Committee shall be considered as registered to the applicant until or unless amended by further action of the Committee.
- (3) Yakama members who wish to register a new gillnet fishing site or change the registration of an existing site may apply to register such sites at any time. Requested modifications from the applicant's list of sites shall be reviewed by the Committee. The Committee shall have at least thirty (30) days to consider the requested modifications to registration.
- (4) If two (2) or more Yakama members have applied for the same site, the Committee shall make a thorough investigation and determine who shall be registered to fish at such site. The Committee shall provide all parties with a written account of its determination, including the facts and applicable law used in reaching its decision. Committee decisions may be appealed to the Tribal Council. The Tribal Council's decision on appeal is final as to the registration of gillnet fishing sites.
- (5) The Committee retains the authority to modify, alter, rescind, or revoke site registrations from any member in the interest of promoting and maintaining orderly fishing among Yakama members.

[Annotation: Enacted by T-121-08]

32.14.11: OTHER CLASSES OF SITES – REGISTRATION.

If the Committee determines that it is necessary to register other classes of sites to protect Treaty fishing rights of Yakama members, the Committee is authorized to establish a registration process not inconsistent with Section 32.14.09 by regulation.

[Annotation: Enacted by T-121-08]



CHAPTER 32.16 – TRIBAL FISH SANCTUARIES

32.16.01: ESTABLISHMENT OF FISH SANCTUARIES.

The Tribal Council, upon recommendation of the Committee, may, by amendment to this Chapter and with public notice, establish and/or modify fish sanctuaries. Fish sanctuaries shall provide a safe resting place for fish where they congregate in large numbers and are vulnerable to high rates of capture, thereby protecting a source of broodstock for spawning.

[Annotation: Enacted by T-121-08]

32.16.03: FISH SANCTUARIES.

The following Fish Sanctuaries are established and include all of the areas described within this Section:

(A) Columbia River Dam Sanctuaries:

(1) Bonneville Dam:

Upstream commercial boundary – deadline is the Bridge of the Gods.

Upstream subsistence boundaries – waters within one hundred fifty (150) feet from Bonneville Dam are closed to fishing.

Downstream subsistence boundaries – waters within six hundred (600) feet from Bonneville Dam are closed to fishing.

(2) The Dalles Dam:

Downstream commercial boundary – running from a marker on the Oregon shore approximately one point eight (1.8) statute miles below the



dam (western edge of Three Mile Rapids) perpendicular to the thread of the river to a marker on the Washington shore.

Upstream and downstream subsistence boundaries – waters within one hundred fifty (150) feet from the Dalles Dam are closed to fishing.

Downstream subsistence sturgeon boundary – from a marker at Covington Point on the Oregon shore in westerly direction to a marker on the Washington shore directly beneath the interstate bridge.

Upstream commercial boundary – running from a marker on the Oregon shore located on the small island approximately one-half (1/2) statute mile above the dam, perpendicular to the thread of the river to a point in mid-river, and thence turning downstream to the navigation marker on the Washington shore at the entrance to Little Spearfish Lake.

(3) John Day Dam:

Downstream commercial boundary – running from the navigation beacon at Preacher's Eddy on the Oregon side, perpendicular to the thread of the river to a marker on the Washington shore.

Upstream and downstream subsistence boundaries – waters within one hundred fifty (150) feet from John Day Dam are closed to fishing.

Upstream commercial boundary – running from a marker on the Oregon shore approximately one half (1/2) mile upstream of the mouth of the John



Day River, perpendicular to the thread of the river to a point in mid-river, thence turning downstream to a marker located on the Washington shore approximately opposite the mouth of the John Day River; EXCEPT, during Winter Season, absent a conservation concern for John Day River wild steelhead, the boundary shall run from a marker on the east bank of the John Day River perpendicular to the thread of the Columbia River to a point in mid-river, thence turning downstream to a marker on the prominent point of the Washington shore approximately one (1) statute mile upstream of the navigation lock entrance.

(4) Mc Nary Dam:

Downstream commercial boundary – running from a marker on the Oregon shore located approximately one (1) statute mile below the dam, perpendicular to the thread of the river to a marker on the Washington shore.

Upstream and downstream subsistence boundaries – waters within one hundred fifty (150) feet from Mc Nary Dam are closed to fishing.

Waters upstream of the Mc Nary dam are closed to commercial fishing and may be opened by regulation passed by the Committee.

- (B) River Mouth Sanctuaries: Commercial fishing sanctuaries at tributary river mouths extend halfway across the Columbia River in the areas specified. Distances are measured in statute miles from a point equidistant from each bank of the tributary river mouth.



(1) Wind River Sanctuary:

From a marker located approximately one-half (1/2) mile upstream of the river mouth to a marker located on the second point of land approximately one and one-quarter (1 ¼) miles downstream of the river mouth.

(2) Herman Creek Sanctuary:

At markers across the mouth of Herman Creek.

(3) Drano Lake/Little White Salmon River Sanctuary:

From a marker located approximately one-half (1/2) mile upstream from the mouth of Drano Lake downstream to navigation light No. 27 at Cook, Washington.

(4) White Salmon River Sanctuary:

From navigation light No. 35 to a marker approximately one-half (1/2) mile downstream of the mouth of White Salmon River.

(5) Spring Creek Hatchery Sanctuary:

From the downstream marker of the White Salmon River sanctuary to a marker approximately one and one-half (1 1/2) miles downstream from the hatchery fish ladder. Subject to variance by regulation passed by the



Committee, this sanctuary is effective only during the migration period for Spring Creek tule Chinook from August 25 to September 20 (average date of 80% hatchery escapement).

(6) Hood River Sanctuary:

From a marker located approximately three-quarter (3/4) mile upstream from the river mouth to a marker located on this western tip of the wingwall approximately point eighty-five (.85) mile downstream of the mouth of Hood River.

(7) Klickitat River Sanctuary:

From the downstream margin of Lyle Landing to a marker located approximately one and one-eighth (1 1/8) miles downstream of the river mouth at upstream edge of the first railroad tunnel.
(Tunnel 2).

(8) Deschutes River Sanctuary:

From the navigation beacon approximately one-half (1/2) mile upstream of the mouth to a marker located approximately one (1) mile downstream of the mouth of the Deschutes River.



(9) John Day River Sanctuary:

This sanctuary is included as part of the John Day Dam upstream commercial sanctuary.

(10) Umatilla River Sanctuary:

From a marker approximately one (1) mile upstream of the mouth to a marker approximately one (1) mile downstream of the mouth of the Umatilla River.

(11) Klickitat Salmon Hatchery Sanctuary:

From downstream boundary markers below Klickitat Salmon Hatchery to boundary markers above the hatchery.

(C) Terrace Heights Bridge Sanctuary on Yakima River:

From the Yakima Avenue, Terrace Heights Bridge upstream four hundred (400) feet to a marker on the left bank.

[Annotation: Enacted by T-121-08]

32.16.05: PROHIBITED ACTS.

Fishing or taking of fish by any persons within any fish sanctuary, the intentional blockage of any river, fishway, or fishladder, or fishing within twenty-five (25) feet of the entrance to any fishway, fishladder, or fish passage facility, without a Special Permit, is prohibited. Violation of this Section by an Indian is a lesser offense and by a non-Indian is a civil offense.

[Annotation: Enacted by T-121-08]



32.16.07: CEREMONIAL FISHING PERMITTED.

Yakama members may fish or take fish for ceremonial occasions within any fish sanctuaries by Special Permit.

[Annotation: Enacted by T-121-08]

CHAPTER 32.18 – TREATY FISHING BY YAKAMA MEMBERS

32.18.01: ENROLLMENT CARD AND PERMITS.

Fishing in the Columbia River Area, Puget Sound Area, and any other place by a Yakama member pursuant to the rights reserved by the Treaty of June 9, 1855 shall be prohibited unless the Yakama member has in his or her possession a valid Yakama Nation Tribal Enrollment Card and any required Special Permit. Upon demand by any tribal game warden, such card or permit shall be produced and displayed, and failure or refusal to do so shall be prima facie evidence that such person is not authorized to exercise Treaty fishing rights. Violation of this Section by a Yakama member is a lesser offense.

[Annotation: Enacted by T-121-08]

32.18.03: CEREMONIAL FISHING – GENERAL PROVISIONS.

(A) Fishing with gillnets by Yakama members for ceremonial purposes shall be allowed by Special Permit. The Special Permit authorizing ceremonial fishing shall include the following information:

- (1) Name, place, date, and purpose of ceremony for which fish are requested.
- (2) Names and enrollment numbers of the Head Fisherman and helpers who will be fishing and transporting fish. Only these individuals will be allowed to fish and transport fish on the occasion covered by the permit.
- (3) Number of set gillnets to be used and exact locations where gillnets will be fished.



- (4) Beginning and ending dates of ceremonial fishing.
 - (5) Exact number of fish requested for the ceremony.
 - (6) Contact telephone number for the Head Fisherman and recipient of the fish.
- (B) It shall be unlawful to knowingly or intentionally:
- (1) Engage in ceremonial gillnet fishing, or transport fish taken for ceremonial purposes, without having in possession a Special Permit authorizing such ceremonial fishing.
 - (2) Violate any of the terms or conditions of the signed Special Permit authorizing such ceremonial fishing.
 - (3) Fish for ceremonial purposes in those areas otherwise designated as closed to subsistence or commercial fishing.
 - (4) Engage in ceremonial gillnet fishing in the Columbia River during any day or part of a week which is or will be open for commercial fishing.
 - (5) Sell or barter, offer for sale or barter, or buy fish taken for ceremonial purposes.
- (C) Each Head Fisherman shall report to the Committee the exact number of fish taken under such Special Permit authorizing ceremonial fishing within seventy-two (72) hours of completing ceremonial fishing.
- (D) Violation of this Section by a Yakama members is a greater offense. In addition to any other penalties established by this Code, violation of this Section by any persons listed as permittees on a Special Permit authorizing ceremonial fishing shall result in the suspension of such permittees' ceremonial fishing rights for the next season.

[Annotation: Enacted by T-121-08]



32.18.05: SUBSISTENCE FISHING: GENERAL PROVISIONS.

(A) This Section applies only to the harvesting of salmon, steelhead, and sturgeon for subsistence purposes. However, the Committee may, from time to time, authorize the commercial sale of fish taken with legal subsistence gears during commercial fishing seasons.

(B) It shall be unlawful to:

- (1) Fish on Sundays.
- (2) Place fishing platforms, or take or fish for salmon or steelhead within twenty (25) feet of the entrance or exit of any fish ladder, fishway, fish bypass pipes, or fish screens.
- (3) Construct a fishing platform or actively fish within twenty (25) feet of an existing platform unless the owner of such platform has agreed otherwise.
- (4) Fish from boats or other floating devices at any place other than the waters of the Columbia River, except by permit from the Committee.
- (5) Fish for salmon, steelhead, or sturgeon with any fishing gear other than dip nets, hoop nets, setbag nets, or rod and reel with bait or lures. Any other method, such as snagging or gaffing, is prohibited.
- (6) Fish with more than two fishing gears at one time unless specifically authorized by the Committee.
- (7) Fish from platforms without being secured by a rope of at least one-half ($\frac{1}{2}$) inch diameter fastened to an object of sufficient strength to hold the weight of the fisher in the event of falling from the platform.
- (8) Fail to attend fishing gear or care for the catch in a reasonable manner so as to avoid spoilage of fish caught.
- (9) Engage in subsistence fishing except during such seasons as prescribed by the Committee, provided the Committee has given forty-eight (48) hour notice of any emergency closure or modification of such seasons.



(C) Special provisions for the Columbia River:

- (1) It shall be lawful to fish for subsistence purposes year around on the Columbia River subject to the provisions in Subsection (C)(2) of this Section, unless modified by order of the Committee.
- (2) It shall be unlawful to:
 - (a) Fish in waters of the Columbia River closed to subsistence fishing as provided in Section 32.16.03, except as may be modified by the Committee;
 - (b) Fish with hoops exceeding twenty-six (26) feet in circumference; and
 - (c) Set in position more than three (3) nets on any one (1) platform at any one time.

(D) Violation of this Section by a Yakama member is a greater offense.

[Annotation: Enacted by T-121-08]

32.18.07: COMMERCIAL FISHING: GENERAL PROVISIONS.

- (A) Commercial fishing for salmon, steelhead, sturgeon, and other foodfish at Yakama Fishing Areas shall be authorized periodically by the Committee. Commercial fishing regulations shall specify lawful time periods, as well as geographic areas, gear types, and species of fish that may be sold during such time periods.
- (B) All equipment used in commercial fishing, including but not limited to, gillnets, hoopnets, dipnets, setlines, fishing poles, platforms, and boats shall be tagged or marked with the enrollment number of the owner or person authorized to operate such equipment.
- (C) It shall be unlawful to:
 - (1) Violate commercial fishing regulations issued by the Committee or Tribal Council.
 - (2) Permit any non-member to operate or assist in the operation of any fishing



gear or boat while it is being used for commercial fishing under this Section.

- (3) Set in place a set gillnet or combination thereof greater than four hundred (400) feet in length.
- (4) Intentionally place a set gillnet within four hundred (400) feet of a registered site without the consent of the person who has registered such site.
- (5) Operate a drift gillnet of any length except by special permit from the Committee.
- (6) Fail to lift and inspect all nets, and remove foodfish therefrom, as often as necessary to prevent spoilage and waste.
- (7) Sell, trade, or barter any Registered site to any person.

(D) Time periods for commercial fishing of sturgeon in the mainstem Columbia River may be authorized periodically by the Committee. The retention of sturgeon not within regulation length adopted by the Committee, which results in the death of such sturgeon, is prohibited unless authorized by Special Permit. It shall be unlawful to mutilate or otherwise alter sturgeon in any way to conform to regulation length limits. All Yakama members shall have a reasonable opportunity to release alive any sturgeon of prohibited length incidentally caught in authorized fisheries.

(E) Miscellaneous Species: It shall be lawful to sell shad, walleye, catfish, or other non-regulated fish species taken during authorized subsistence or commercial fishing seasons, unless prohibited by the Committee.

(F) Violation of this Section by a Yakama member is a greater offense. Nothing in this Code shall be deemed to preclude federal prosecution of Yakama members for illegal trafficking of fish in interstate commerce under 16 U.S.C. §§ 3372 and 3373.

[Annotation: Enacted by T-121-08]



CHAPTER 32.19 – GENERAL RESTRICTIONS

32.19.01: TAKING PROTECTED FISH SPECIES.

All persons are prohibited from fishing for or taking any species of fish declared protected by Tribal Council resolution. Violation of this Section by an Indian is a greater offense and by a non-Indian is a civil offense.

[Annotation: Enacted by T-121-08]

32.19.03: UNLAWFUL POSSESSION.

Unless otherwise authorized in this Code, it shall be unlawful for any persons to have in their possession any foodfish except as lawfully taken. Violation of this Section by an Indian is a greater offense and by a non-Indian is a civil offense.

[Annotation: Enacted by T-121-08]

32.19.05: UNLAWFUL INTERFERENCE AND DAMAGE.

Purposefully interfering with or obstructing any person lawfully engaged in fishing is prohibited, including, but not limited to, pulling up, damaging, or destroying nets, boats, platforms, or other equipment. Violation of this Section by an Indian is a greater offense and by a non-Indian is a civil offense.

[Annotation: Enacted by T-121-08]

32.19.07: WASTE OF FOODFISH.

Any waste of any foodfish species taken by any persons is prohibited. Violation of this Section by an Indian is a greater offense and by a non-Indian is a civil offense.

[Annotation: Enacted by T-121-08]



32.19.09: UNLAWFUL HARRASSMENT OR INJURY OF FISH.

Purposeful harassment of or injury to fish by any persons, with no intent to take such fish, is prohibited. Violation of this Section by an Indian is a lesser offense and by a non-Indian is a civil offense.

[Annotation: Enacted by T-121-08]

32.19.11: USE OF TOXIC SUBSTANCES.

Use of any explosive compound, toxic, corrosive, narcotic, poison or other deleterious substance by any persons to take fish is prohibited, except as authorized by the Committee. Violation of this Section by an Indian is a greater offense and by a non-Indian is a civil offense.

[Annotation: Enacted by T-121-08]

32.19.13: FISHING WHILE INTOXICATED.

Fishing, operating any boat or gear for the purpose of fishing, or assisting in fishing by any person while under the influence of any intoxicating substance, including alcohol or narcotic drugs, is prohibited. Whether a person is under the influence of an intoxicating substance shall be determined in accordance with the standards under Sections 50.21.03 and 50.21.05. Violation of this Section by an Indian is a greater offense and by a non-Indian is a civil offense.

[Annotation: Enacted by T-121-08]

32.19.15: UNAUTHORIZED TREATY FISHING.

(A) It shall be unlawful for a Yakama member to allow a person who is not authorized to exercise Treaty fishing rights to fish or take fish for him or her, or assist him or her in such fishing or taking of fish.

(B) It shall be unlawful for a non-member to:

- (1) Fish or take fish pursuant to Treaty fishing rights; or
- (2) Fish or take fish for a Yakama member or assist such member in such fishing or taking of fish.



(C) Violation of this Section by an Indian is a lesser offense and by a non-Indian is a civil offense.

32.19.17: USE OF FISH FOR SCIENTIFIC PURPOSES.

It shall be unlawful for any person to take, possess, sample, or measure fish for scientific, management and/or enhancement purposes, except pursuant to a Special Permit. This prohibition does not apply to Yakama Nation staff, Bureau of Indian Affairs staff, and U.S. Fish & Wildlife Service staff while on official duty. Violation of this Section by an Indian is a greater offense and by a non-Indian is a civil offense.

[Annotation: Enacted by T-121-08]

32.19.19: TRAPPING FISH.

It shall be unlawful for any person to trap fish, except pursuant to a Special Permit. Violation of this Section by an Indian is a greater offense and by a non-Indian is a civil offense.

[Annotation: Enacted by T-121-08]

32.19.21: INTRODUCTION OF NON-NATIVE FISH SPECIES.

It shall be unlawful to import, transport, or possess live non-native fish species for release, sale, trade, or barter, unless: authorized by Special Permit; or the non-native fish species is kept indoors or in an outdoor artificial pond of less than fifteen hundred (1500) gallons maximum volume. Violation of this Section by an Indian is a greater offense and by a non-Indian is a civil offense.

[Annotation: Enacted by T-121-08]

32.19.23: FAILURE TO IDENTIFY.

It shall be unlawful for any person reasonably suspected of violating this Code who is able to offer proof of his or her identity to willfully refuse to do so to a game warden who, after



identifying himself as such, demands such identification. Violation of this Section by an Indian is a greater offense and by a non-Indian is a civil offense.

[Annotation: Enacted by T-121-08]

32.19.25: SUSPENDED FISHING PRIVILEGES.

It shall be unlawful for any person to fish or take fish if the Tribal Court or other court has suspended such person's fishing privileges. Any permit obtained by such person under this Code is void and of no effect from the date of issuance thereof. Violation of this Section by an Indian is a greater offense and by a non-Indian is a civil offense.

[Annotation: Enacted by T-121-08]

32.19.27: OBTAINING PERMIT BY FRAUD OR ASSIGNMENT.

No person shall, by fraud, misrepresentation or assignment, obtain a permit to fish or take fish, or provide such a permit to another person by such means, and a permit so obtained is void and of no effect from the date of issuance thereof. Violation of this Section by an Indian is a greater offense and by a non-Indian is a civil offense.

[Annotation: Enacted by T-121-08]

32.19.29: VIOLATION OF OTHER REGULATIONS.

Unless otherwise provided in this Code, it shall be unlawful for any person to intentionally or negligently violate any regulation passed by the Committee. Violation of this Section by an Indian is a lesser offense and by a non-Indian is a civil offense.

[Annotation: Enacted by T-121-08]



32.19.31: VIOLATION OF TRADITIONAL LAW.

It shall be unlawful for any person to violate the traditional law of the Yakama Nation as it applies to fishing and/or the possession of fish. Violation of this Section by an Indian is a traditional offense and by a non-Indian is a civil offense.

[Annotation: Enacted by T-121-08]

32.19.33: AIDING OR ABETTING.

It shall be unlawful for any person to counsel, encourage, solicit, request, aid, procure or abet another person to commit any act prohibited under this Code. Violation of this Section by an Indian is a lesser offense and by a non-Indian is a civil offense.

[Annotation: Enacted by T-121-08]

CHAPTER 32.20 – PUBLIC FISHING

32.20.01: PURPOSE.

This Chapter regulates fishing and taking of fish by non-members: on or from any lands or waters within the exterior boundaries of the Yakama Reservation; and any other area subject to the exclusive jurisdiction of the Yakama Nation.

[Annotation: Enacted by T-121-08]

32.20.03: PUBLIC FISHING PROGRAM.

A program permitting recreational fishing by non-members from any authorized lands or waters within the Reservation is established by this Chapter. The Committee shall be authorized to issue fishing permits, licenses or tags in accordance with this Code and applicable federal law regulating the taking or managing of fish.

[Annotation: Enacted by T-121-08]



32.20.05: PUBLIC FISHING SEASONS.

(A) The Committee is authorized to open annual fishing seasons for non-member fishing and taking of fish.

(B) All fishing within the purview of this Chapter shall be closed to non-members unless specifically opened pursuant to this Chapter or by official action of the Committee.

[Annotation: Enacted by T-121-08]

32.20.07: ADOPTION OF REGULATIONS.

(A) The Committee shall adopt annual or special regulations covering all aspects of non-member fishing in open seasons under this Chapter, including, but not limited to, season dates, fishing hours, species, daily catch limits, possession limits, and closed areas.

(B) Copies of this Chapter and any regulations adopted pursuant to this Chapter shall be available for review at the office of FRMP, Toppenish, Washington.

[Annotation: Enacted by T-121-08]

32.20.09: BASS, CATFISH, CARP, CRAPPIE, PERCH, SUNFISH, AND OTHER NON-NATIVE FISH SPECIES.

The taking of bass, catfish, carp, crappie, perch, sunfish, and other non-native fish species under this Chapter shall be open year-round, unless restricted by regulation passed by the Committee. The catch limit shall be set by the Committee.

[Annotation: Enacted by T-121-08]

32.20.11: TROUT.

The taking of trout is closed year-round, unless opened by regulation passed by the Committee.

[Annotation: Enacted by T-121-08]



32.20.13: WHITEFISH, SUCKER, PIKEMINNOW, AND OTHER NATIVE RESIDENT FISH SPECIES.

The taking of whitefish, sucker, pikeminnow, and other native resident fish species under this Chapter shall be open year-round, unless restricted by regulation passed by the Committee. The catch limit shall be set by the Committee.

[Annotation: Enacted by T-121-08]

32.20.15: SALMON AND STEELHEAD.

The taking of salmon and steelhead is closed year-round, unless opened by regulation passed by the Committee.

[Annotation: Enacted by T-121-08]

32.20.17: PUBLIC FISHING PERMIT REQUIRED.

(A) No non-member shall fish or take any fish unless at the time of fishing or taking fish he has a valid Public Fishing Permit issued pursuant to this Chapter in his or her possession.

(B) No non-member fishing or taking fish shall fail or refuse to exhibit his or her Public Fishing Permit and/or catch to a game warden upon request.

(C) Violation of this Section by non-members may subject the non-members to federal prosecution.

[Annotation: Enacted by T-121-08]

32.20.19: FORM AND CONTENTS OF PUBLIC FISHING PERMITS.

Public Fishing Permit under this Chapter shall be prepared by FRMP and furnished to the vendors authorized to issue permits. Such permits shall be issued in the name of the Yakama Nation and signed by the Chairman of the Tribal Council.

[Annotation: Enacted by T-121-08]



32.20.21: PERMIT AGREEMENT REQUIRED.

(A) All persons to whom Public Fishing Permits are issued shall be required to sign a Permit Agreement submitting to the jurisdiction of this Code before any such permit may be valid. The Permit Agreement shall be printed on all permits in the form provided by Subsection (B) of this Section. The Permit Agreement shall be signed by the applicant, and any permit not so signed is invalid.

(B) Permit Agreement Form:

The Yakama Nation is a sovereign nation with inherent authority to regulate the taking of fish within the Yakama Reservation. By the signature below, the above permittee consents to the civil jurisdiction of the Yakama Nation for any fishing violations committed by the undersigned.

Signature of Permittee

[Annotation: Enacted by T-121-08]

32.20.23: PUBLIC FISHING PERMIT FEES.

Annual administrative fees to be charged for Public Fishing Permits shall be prescribed by the Committee.

[Annotation: Enacted by T-121-08]

32.20.25: SALE OF PUBLIC FISHING PERMITS; VENDOR AGREEMENTS.

Public Fishing Permits under this Chapter shall be issued by persons designated as permit vendors by the Committee. All such permit vendors shall be required to sign a Vendor Agreement concerning any reports and revenue required by this Chapter and any adopted regulations. Any breach of a Vendor Agreement by the undersigned vendor is a violation of this Chapter.

[Annotation: Enacted by T-121-08]



32.20.27: REPORTS AND RETURNS BY PUBLIC FISHING PERMIT VENDORS.

Each Public Fishing Permit vendor shall, by the tenth (10th) day of each month, report to the FRMP all sales of such permits and submit all revenue generated by such permit sales during the previous month. Each Public Fishing Permit dealer shall by April 10 of each year, or within ten (10) days of a demand by the FRMP, return to FRMP all unused Public Fishing Permits.

[Annotation: Enacted by T-121-08]

32.20.29: DAILY LIMIT.

No person fishing or taking fish under this Chapter shall take, in any one (1) calendar day, more than the daily catch limit or aggregate daily catch limit, whichever applies.

[Annotation: Enacted by T-121-08]

32.20.31: POSSESSION LIMIT.

No person fishing or taking fish under this Chapter shall have in his possession, in any one (1) calendar day, more than the possession limit or aggregate possession limit, whichever applies.

[Annotation: Enacted by T-121-08]

32.20.33: FISHING AREAS AUTHORIZED; TRESPASS.

- (A) Areas open and closed to public fishing shall be established by the Committee on an annual basis in published regulations.
- (B) The issuance of a fishing permit does not authorize entry onto fee lands without express permission of the landowners.
- (C) Entering upon any trust or tribal lands without permission of the United States, the Yakama Nation, the allotment owner, and/or lessee, is prohibited and shall be grounds for trespass under federal law and the Code.

[Annotation: Enacted by T-121-08]



**CHAPTER 32.21 – FISHING EQUIPMENT STANDARDS AND BOAT SAFETY
REGULATIONS**

32.21.01: FISHING EQUIPMENT STANDARDS.

- (A) The Committee is authorized to establish fishing equipment standards by regulation.
- (B) Fishing equipment standards shall be published annually by the Committee and posted at FRMP.
- (C) Violation of this Section or any regulations established hereunder by an Indian is a lesser offense and by a non-Indian is a civil offense.

[Annotation: Enacted by T-121-08]

32.21.03: BOAT SAFETY REGULATIONS.

- (A) The Committee is authorized to establish boat safety regulations.
- (B) Boat safety regulations shall be published annually by the Committee and posted at FRMP.
- (C) Violation of this Section or any regulations established hereunder by an Indian is a lesser offense and by a non-Indian is a civil offense.

[Annotation: Enacted by T-121-08]

CHAPTER 32.22 – SPECIAL PERMITS

32.22.01: AUTHORITY.

The Committee shall be authorized to issue Special Permits to Yakama members or non-members in accordance with this Code and applicable federal law regulating the taking or managing of fish species.

[Annotation: Enacted by T-121-08]



32.22.03: SPECIAL PERMIT REQUIRED.

(A) No person shall fish or take any fish or engage in any activity requiring a Special Permit unless at the time of fishing or taking fish or engaging in such activity he or she has a valid Special Permit issued by the Committee in his or her possession.

(B) No person fishing or taking fish or engaging in any activity requiring a Special Permit shall fail or refuse to exhibit such Permit to a game warden upon request.

(C) Violation of this Section by an Indian is a greater offense and by a non-Indian is a civil offense. Violations of this Section by non-members may also be subject to federal prosecution.

[Annotation: Enacted by T-121-08]

32.22.05: FORM AND CONTENTS OF SPECIAL PERMIT.

Each Special Permit under this Chapter shall be issued for a specific activity and shall contain on its face all required conditions in accordance with this Code, any regulations issued thereunder, and any recommendations of FRMP. Special Permits authorizing ceremonial fishing shall include any information required by Section 32.18.03. Each such Permit shall be prepared by FRMP, issued in the name of the Yakama Nation, and signed by the Chairman of the Committee.

[Annotation: Enacted by T-121-08]

32.22.07: PERMIT AGREEMENT REQUIRED.

(A) All persons to whom Special Permits are issued shall be required to sign a Permit Agreement submitting to the jurisdiction of this Code before any such permit may be valid. The Permit Agreement shall be printed on all permits in the form provided by Subsection (B) of this Section. The Permit Agreement shall be signed by the applicant, and any permit not so signed is invalid.

(B) Permit Agreement Form:

By his/her signature below, the permittee consents to the jurisdiction of the Yakama Nation over any fish violations committed by the undersigned, and agrees to comply with



the above conditions and guidelines for this permitted activity. Unless otherwise specified, this Permit does not allow access into the Open Range and Forested "Closed Area." This Permit releases the Yakama Nation from liability to the permittee due to injuries, disease, or accidental death incurred while acting under authority of this Permit.

Signature of Permittee

Phone

Date

[Annotation: Enacted by T-121-08]

32.22.09: SPECIAL PERMIT FEES.

Annual administrative fees to be charged for Special Permits shall be prescribed by the Committee.

[Annotation: Enacted by T-121-08]

CHAPTER 32.28 – GENERAL PENALTIES

32.28.01: CRIMINAL SANCTIONS.

(A) A violation of any provision of this Code, excluding any provision of Chapter 32.20 and Section 32.19.31, by a Yakama member or a non-member Indian shall be a criminal offense, designated by this Code as either a lesser offense or greater offense depending on the severity of the crime.

(B) Any Yakama member or non-member Indian who has entered a guilty plea to or has been convicted by the Tribal Court of violating any provision of this Code or any regulation adopted thereunder, excluding any provision of Chapter 32.20 and Section 32.19.31, shall be punished as follows:

(1) For a lesser offense, by imprisonment for a maximum term of not more than ninety (90) days, or by a fine in the amount of no more than five hundred dollars (\$500.00), or both. In addition, the Court may suspend the violator's



fishing privileges for a maximum of one hundred eighty (180) days following sentencing. The Court may order that the violator pay restitution, court costs, and attorney fees and costs. The Court may consider in imposing sentence the schedule of civil fines and restitution amounts approved by the Committee pursuant to Section 32.28.03. The Court may order a forfeiture of any bail, bond and any other type of surety, as well as any seized property or evidence used in the commission of any violation or resulting therefrom. The Court may order the violator to serve a period of probation and during that probation the violator shall comply with any other conditions the Court deems just. Each additional violation within the same year and/or fishing season shall be treated as a greater offense under Subsection (B) (2) of this Section.

(2) For a greater offense, by imprisonment for a maximum term of not more than one hundred eighty (180) days, or by a fine in the amount of no more than five thousand dollars (\$5000.00), or both. In addition, the Court may suspend the violator's fishing privileges for a maximum of three hundred sixty five (365) days following sentencing. The Court may order that the violator pay restitution, court costs, and attorney fees and costs. The Court may consider in imposing sentence the schedule of civil fines and restitution amounts approved by the Committee pursuant to Section 32.28.03. The Court may order a forfeiture of any bail, bond and any other type of surety, as well as any seized property or evidence used in the commission of any violation or resulting therefrom. The Court may order the violator to serve a period of probation and during that probation the violator shall comply with any other conditions the Court deems just.

[Annotation: Enacted by T-121-08]



32.28.03: CIVIL FINE, RESTITUTION, COSTS, FORFEITURE AND SUSPENSION.

(A) A violation of this Code by a non-Indian, or a violation of Chapter 32.20 of this Code by a non-member Indian, shall be a civil offense in which the Tribal Court may order payment of a civil fine and restitution. The Court may also order the violator to pay court costs and attorney fees and costs. If, on a showing of good cause, the violator is unable to pay the assessed amounts when due, the Court may grant an extension, and may grant additional extensions of time in which such assessed amounts shall be paid or may allow payment in installments. The Court may, in its discretion, waive, reduce, or suspend the assessed amounts prescribed for the violation after a hearing. The Court may order a forfeiture of any bail, bond and any other type of surety, as well as any seized property or evidence used in the commission of any violation or resulting therefrom. In addition, the Court may suspend the violator's fishing privileges for a maximum of two (2) public fishing seasons following the close of the season in which the violation(s) occurred.

(B) FRMP shall annually prepare for the approval of the Committee a schedule of civil fines and restitution amounts, which shall be dollar determinations calculated to closely approximate the cost of providing for the damage or loss caused by each violation of this Code and/or regulation adopted under this Code. In calculating these amounts, the Committee may include:

- (1) Costs of producing and/or protecting the resource;
- (2) Costs of replacing or restoring the resource;
- (3) Costs of enforcement, including the general overall costs as well as costs particular to individual violations where appropriate;
- (4) Loss of permit revenue;
- (5) Damages for trespass;
- (6) Costs incurred for attorney's fees in Court.



(C) Pending approval of the initial schedule of civil fines and restitution amounts by the Committee, the following apply for each violation of this Code:

- (1) The civil fine is one hundred and fifty dollars (\$150.00); and
- (2) The restitution amount is two hundred and fifty dollars (\$250.00).

(D) All non-members shall be deemed to have consented to the civil fine and restitution provisions of this Code by their entry onto the Reservation, and where applicable, by their signature on a permit or permits issued under this Code.

(E) FRMP shall publish the schedule of civil fines and restitution amounts under this Section and have it made available to the public at the office of FRMP, Toppenish, Washington, and at all permit vendor locations.

[Annotation: Enacted by T-121-08]

32.28.05: TRADITIONAL PUNISHMENT.

(A) Violation of Section 32.19.31 by a Yakama member or a non-member Indian shall be a traditional offense.

(B) Any Yakama member or non-member Indian who has entered a guilty plea to or has been convicted by the Tribal Court or by other traditional process of violating Section 32.19.31 shall be punished according to traditional law, subject to any limitations imposed by the Indian Civil Rights Act.

(C) The defendant, Tribal Prosecutor, Tribal Police, witnesses, victims, and any other concerned person shall have a right to an English language interpreter at all stages of the prosecution for violation of Section 32.19.31.

[Annotation: Enacted by T-121-08]

32.28.07: EXCLUSION.

Nothing in this Code shall be deemed to preclude the use of the remedy of exclusion, whether Indian or non-Indian, for violation of this Code, and any game warden or other appropriate tribal



official may follow the procedure provided by Section 35.01.03 to initiate an action for exclusion in addition to or in lieu of any other enforcement procedure provided by this Code.

[Annotation: Enacted by T-121-08]

32.28.09: FEDERAL PROSECUTION.

Nothing in this Code shall be deemed to preclude federal prosecution of non-members, whether Indian or non-Indian, for:

- (A) Trespass on tribal lands under 18 U.S.C. § 1165;
- (B) Theft of tribal assets under 18 U.S.C. § 1163;
- (C) Illegal trafficking in fish and wildlife under 16 U.S.C. §§ 3372 and 3373; or
- (D) Other applicable federal laws.

CHAPTER 32.30 – ENFORCEMENT

32.30.01: GAME WARDENS.

All Tribal Police officers and all Tribal game wardens shall have the authority to enforce the provisions of this Code and regulations adopted thereunder. All Tribal Police officers and all Tribal game wardens shall have authority to enter all Closed Areas and other lands and waters of the Yakama Nation without a permit. Such entry shall not constitute a trespass.

[Annotation: Enacted by T-121-08]

32.30.03: TRIBAL PROSECUTOR.

The Tribal Prosecutor shall have authority to enforce the provisions of this Code and regulations adopted thereunder, as well as exclusive authority to prosecute any person for violations of this Code and regulations adopted thereunder. The Tribal Prosecutor shall have authority to enter all Closed Areas and other lands and waters of the Yakama Nation without a permit. Such entry shall not constitute a trespass.

[Annotation: Enacted by T-121-08]



32.30.05: ARRESTS, WARRANTS, SUBPOENAS, AND SERVICE OF PROCESS.

Any game warden may, in addition to exercising any other powers granted in this Code, do the following:

- (A) Make arrest of a Yakama member or a non-member Indian when probable cause has led the game warden to believe a violation of this Code is occurring or has occurred. Probable cause shall include exigent circumstances which give the game warden reason to believe there is a need for prompt action;
- (B) Execute warrants issued by the Tribal Court for the arrest of Yakama members or non-member Indians who have violated the provisions of this Code;
- (C) Execute search warrants issued by the Court in matters arising under this Code or applicable federal laws;
- (D) Serve subpoenas or other legal documents issued in matters arising under this Code.

[Annotation: Enacted by T-121-08]

32.30.07: SEARCHES AND SEIZURES.

- (A) Any game warden may, without a search warrant, search any aircraft, watercraft, vehicle, box, game bag, locker, backpack, bedroll, sleeping bag, or other container or package if the officer has probable cause to believe that fish or parts thereof taken in violation of this Code, or the instrumentalities of such taking, are contained therein.
- (B) This Section shall not be construed to permit the warrantless search of any non-mobile dwelling house (including mobile/modular homes) or any outbuilding within the enclosed land surrounding it.
- (C) Any game warden may inspect all fish or parts thereof taken, possessed, or transported, and may seize as evidence all fish which such officer has probable cause to believe has been taken, possessed, or transported in violation of this Code, and any object



which the officer has probable cause to believe has been used as the instrumentality of such illegal taking, possession, or transportation.

(D) The Court may subject to forfeiture, by court order, any contraband fish, or any personal property used in a violation of this Code and seized by a game warden, including, but not limited to, motor vehicles, watercraft, firearms and fishing gear.

[Annotation: Enacted by T-121-08]

32.30.09: DETERMINATION OF MEMBERSHIP.

Any game warden who has reasonable grounds to believe that a person has violated a provision of this Code, either in or out of the officer's presence, shall identify himself or herself to such person and promptly determine whether the person is a Yakama member or a non-member. In making such determination, the officer may ask to see the person's enrollment card, identification, or permit, and ask questions as the game warden reasonably believes are necessary for making the identification.

[Annotation: Enacted by T-121-08]

32.30.11: NO IDENTIFICATION.

(A) If a person does not identify himself or herself, and the game warden has reasonable grounds to believe that such person is a Yakama member or a non-member Indian, such person may be arrested in accordance with RYC Chapter 6.01.

(B) If a person does not identify himself or herself, and the game warden has reasonable grounds to believe that such person is a non-Indian, the officer shall issue and file a civil citation in accordance with Section 32.30.13 of this Code, substituting for the suspected violator's name a fictitious name such as John Doe. Upon determination of the true name of any defendant designated by a fictitious name in a civil citation, the Tribal Prosecutor may amend the complaint to reflect the defendant's true name.

[Annotation: Enacted by T-121-08]



32.30.13: CIVIL CITATION AND CIVIL COMPLAINT.

(A) A civil citation constitutes a notice of civil infraction or violation by a non-Indian, or non-member Indian as to Chapter 32.20, and shall satisfy all requirements for the filing of a civil complaint in Tribal Court under RYC Chapter 7.01.

(B) If, after identification, a game warden determines that the suspected violator is not an Indian, or non-member Indian as to Chapter 32.20, the officer shall issue to him or her a civil citation for the violations alleged, and release the suspected violator after he or she has signed the citation. Civil citations issued subsequent to an investigation shall be served on the defendant by both certified mail and first class mail. Certification of service of the citation shall be indicated on the face of the citation by the issuing officer. One copy of the citation shall be filed by the issuing officer with the Court.

(C) Any defendant named in the civil citation who does not contest the determination that the violation(s) took place shall, within fifteen (15) days from the date of the citation, respond by completing the appropriate portion of the citation and submitting it either by mail or in person to the Court. A check or money order in the amount of the civil fine set out in the citation must be submitted with the response.

(D) When a response under this subsection is received, an appropriate notation shall be entered in the Court's records. No further proceedings for a particular violation shall be initiated against any defendant who pays the civil fine for such violation.

(E) If the defendant named in the civil citation wishes to contest the determination that the violation(s) took place, or wishes to explain mitigating circumstances surrounding the violation, the defendant shall, within fifteen (15) days of the date of the citation, respond by completing the portion of the citation requesting a hearing for such purpose and shall submit it either by mail or in person to the Court.



(F) The Tribal Prosecutor may file a civil complaint against the defendant in lieu of the foregoing procedures.

[Annotation: Enacted by T-121-08]

32.30.15: CRIMINAL CITATION AND CRIMINAL COMPLAINT.

(A) A criminal citation constitutes a notice of a criminal offense by a Yakama member or a non-member Indian and shall satisfy all requirements for the filing of a criminal complaint in Tribal Court under Section 6.01.03. The Tribal Prosecutor may file a criminal complaint against the defendant in lieu of a criminal citation.

(B) If after identification the suspected violator is determined to be a Yakama member or non-member Indian, the game warden shall issue to him or her a criminal citation, and release the suspected violator after he or she has signed the citation, unless he or she is otherwise subject to arrest according to tribal laws governing the arrest of persons on citable offenses.

[Annotation: Enacted by T-121-08]

32.30.17: TRADITIONAL COMPLAINT.

(A) Game wardens shall investigate and submit Standard Incident Reports for review by the Tribal Prosecutor for violations of traditional law committed by Yakama members and non-member Indians.

(B) The Tribal Prosecutor may process any violations of traditional law pursuant to a traditional process or by Traditional Complaint filed with Tribal Court.

[Annotation: Enacted by T-121-08]

32.30.19: BOND.

If a suspected violator refuses to sign a civil citation or a criminal citation, or refuses to be identified, or is not a Yakama member and not a permanent resident of the Reservation, and if the game warden determines that:



(A) Seizure of the suspected violator's property is necessary to secure the important tribal interest of guaranteeing the presence within tribal jurisdiction of sufficient assets of the suspected violator to secure payment of the civil fine and restitution determined by the Court to have resulted from the violation of this Code, or in the case of a criminal citation to insure presence at trial, and

(B) There is need for prompt action because it is likely that the suspected violator will leave the Reservation and tribal jurisdiction with his or her property and not return,

Then the game warden may demand that the suspected violator post a bond in an amount equal to the sum of the civil fine and restitution or bail for which he or she could be found liable by the Court for the violation(s) the officer has alleged in the civil citation or criminal citation.

[Annotation: Enacted by T-121-08]

32.30.21: BOND DEPOSIT AND STORAGE.

Within two (2) business days of being posted all cash bonds shall be deposited in a trust account established by the Court. All bond property shall be deposited with Tribal Police in secure storage within twenty-four (24) hours of being posted.

[Annotation: Enacted by T-121-08]

32.30.23: DISPOSITION OF SEIZED OR FORFEITED FISH AND PROPERTY.

(A) Upon issuance of a citation or complaint the game warden shall retain all fish in the possession of the suspected violator. Until the alleged violation is resolved by the Court, or the suspected violator either fails to appear or admits the violation, the fish seized shall be preserved to the extent possible.

(B) If the Court determines that the suspected violator has not violated this Code or regulations adopted thereunder, the seized fish shall be returned if possible.

(C) The Yakama Nation Chief of Police shall prepare a report of all fish, equipment, and devices seized by the game wardens showing a description of the items, the person from whom they were seized, if known, and the disposition of the items. This report



shall be presented annually to the Committee, and the Tribal Prosecutor, and also distributed to the FRMP.

(D) All money derived from the sale of any forfeited property shall be disbursed to the Yakama Nation Game Wardens' Self Funded Account.

[Annotation: Enacted by T-121-08]

32.30.25: DISPOSITION OF FINES AND OTHER MONIES.

Except as otherwise provided within this Section, all fines or other monetary penalties owed to the Yakama Nation collected for violations of this Code or regulations adopted thereunder shall be disbursed to the Yakama Nation Game Wardens' Self Funded Account, PROVIDED, however, that cash bonds, unless forfeited or otherwise resolved after hearing, shall be deposited in a trust account as provided by Section 32.30.21 of this Code. All restitution owed to the Yakama Nation shall be disbursed to the FRMP Self Funded Account to be applied to Fisheries Restoration Efforts. All attorney fees and costs owed to the Yakama Nation shall be disbursed to the Yakama Nation Prosecutor's Office's Self Funded Account. Court costs owed to the Yakama Nation shall be disbursed to the Yakama Nation Tribal Court's Self Funded Account.

[Annotation: Enacted by T-121-08]

32.30.27: NOTIFICATION OF FRMP.

Upon a criminal conviction, or a final civil judgment against any person for violation of this Code, the Court shall notify the FRMP if the final assessed penalty includes suspension of the violator's fishing privileges.

[Annotation: Enacted by T-121-08]

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